

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

| | | |
|---|---|-------------------------------|
| UNITED STATES OF AMERICA, <i>et al.</i> , |) | |
| <i>ex rel.</i> DEBORAH MAGUIRE, |) | |
| |) | |
| Plaintiffs, |) | Civil Action No. 02-11436-RGS |
| v. |) | |
| |) | |
| OMNICARE, INC., |) | |
| |) | |
| Defendant. |) | |

STIPULATION OF DISMISSAL

Civil Action No. 02-11436-RGS (the “Civil Action”) is an action under the *qui tam* provisions of the False Claims Act, 31 U.S.C. §§ 3729-3733, filed by relator Deborah Maguire (“Maguire”) against Omnicare, Inc. (“Omnicare”).

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b)(1), and in accordance with the terms of the settlement agreement among the United States, Omnicare, and Maguire (the “Settlement Agreement”), the parties hereby stipulate, through their undersigned counsel, to the entry of an order (1) dismissing with prejudice all claims asserted on behalf of the United States in the Civil Action for the Covered Conduct as defined in Preamble Paragraphs I(3) and I(4) of the Settlement Agreement, and (2) dismissing with prejudice to relator Maguire and without prejudice to the United States all remaining claims asserted in the Civil Action, except that Maguire is not dismissing any claim she may have against the United States under 31 U.S.C. § 3730(d) to a share of the proceeds under the Settlement Agreement.

Maguire, on behalf of herself, her heirs, successors, attorneys, agents, and assigns, stipulates that the Settlement Amount set forth in the Settlement Agreement and the terms and conditions described therein are fair, adequate, and reasonable under all the circumstances, that

she will not challenge the settlement pursuant to 31 U.S.C. § 3730(c)(2)(B), and that she expressly waives the opportunity for a hearing on any objection to the settlement pursuant to 31 U.S.C. § 3730(c)(2)(B).

The parties respectfully request that the Court enter an order in the form of the attached proposed order.

Respectfully submitted,

TONY WEST
ASSISTANT ATTORNEY GENERAL

MICHAEL K. LOUCKS
ACTING UNITED STATES ATTORNEY

By: /s/ Gregg Shapiro
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Dated: November 3, 2009

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Dated: October 30, 2009

COUNSEL FOR OMNICARE, INC.:

/s/ Paul W. Shaw

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One Lincoln Street

Boston, MA 02111

Dated: November 3, 2009

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ORDER OF DISMISSAL

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the False Claims Act, 31 U.S.C. § 3730(b)(1), the United States, Omnicare, Inc. (“Omnicare”), and relator Deborah Maguire filed a Stipulation of Dismissal. Upon due consideration of the Stipulation and the other papers on file in this action,

IT IS HEREBY ORDERED that:

1. Consistent with the terms of the Settlement Agreement executed by the United States, Omnicare, and the relator (the “Settlement Agreement”), all claims asserted on behalf of the United States in this action for the Covered Conduct as defined in Preamble Paragraphs I(3) and I(4) of the Settlement Agreement shall be dismissed with prejudice, and all remaining claims asserted on behalf of the United States in this action shall be dismissed with prejudice to the relator and without prejudice to the United States.

2. No claim or allegation other than those specifically identified in the Stipulation and herein shall be dismissed at this time.

Done this _____ day of _____, 2009.

RICHARD G. STEARNS
UNITED STATES DISTRICT JUDGE

cc:

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